

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	2080.04
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	January 7, 2004
DATE OF REPORT:	February 3, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	March 17, 2004

**COMPLAINT ISSUES:**

Whether the Warrick County School Corporation and the Gibson-Pike-Warrick Special Education Cooperative violated:

511 IAC 7-29-1 by failing to comply with procedures for suspensions, or 511 IAC 7-27-4(a)(4) and 511 IAC 7-27-5(d)(3) by failing to convene case conference committee (CCC) meetings when a change of placement is proposed or to be considered and failing to obtain written parental consent for a change of placement, specifically in connection with "emergency homebound" placements.

511 IAC 7-27-4(c) by failing to utilize the case conference committee to develop, review, or revise the student's individualized education program (IEP), specifically, adopting and implementing revised goals and objectives as of September 8, 2003.

511 IAC 7-27-7(a) by failing to implement the Student's IEP as written, specifically with respect to use of the PEC system.

**FINDINGS OF FACT:**

1. The Student is six years old and is eligible for special education and related services as a student with an autism spectrum disorder and a communication disorder.
2. The Student's family moved to Indiana from another State during the summer of 2003. On August 11, 2003, the Student's parent contacted the special education cooperative (Co-op). On August 14, 2003, the Student's records, including the current individualized education program (IEP) from the other state, were received by the Co-op.
3. The Student's case conference committee (CCC) met on August 27, 2003, and decided to adopt the current IEP from the other state, with an Addendum calling for placement in a special education kindergarten class for 100% of a school day beginning at 8:00 a.m. and ending at 2:00 p.m.; speech/language services 3 times/week for 30 minutes and 2 times/week for 20 minutes; occupational therapy 3 times/month for 20 minutes, assistive technology devices (PEC system); assistive technology services (AAC/AT team consult); and behavioral suggestions as deemed appropriate (behavior specialist consult). Goals and objectives were not changed. The Addendum also provided for daily progress reports in addition to other less frequent progress reports.

4. The Student's first day at school was September 2, 2003. Some services specified in the IEP Addendum (speech/language services, for example) were initiated the first day. However, a Picture Exchange Communication (PEC) system was not provided to or utilized in the classroom during the period from September 2, 2003, through September 9, 2003.
5. It is the practice of the special education teacher (Teacher) to assess all students in the classroom near the beginning of the school year. If a student's current levels of performance differ from the levels summarized in the individualized education program, it is the Teacher's practice to prepare revised goals and objectives and to send the revisions to the parent(s), with an offer of a parent-teacher conference to discuss the revisions.
6. On September 8, 2003, the Teacher assessed the Student's present levels of performance using the Brigance Early Childhood Inventory and wrote proposed goals and objectives, including behavioral goals, with 9/8/03 identified as the "Initiated Date" for some goals and objectives. The assessment and observations were conducted during a time that the Student did not have a PEC system available for use in the classroom. On September 8, 2003, the Teacher provided to the Parent a copy of the assessment report including revised goals and objectives. The Teacher did not request a CCC meeting.
7. On September 10, 2003, the Principal met with the Parent regarding the Student's behavior that impeded the Student's learning and that of others during the period from September 2, 2003, through September 9, 2003. The Principal and the Parent reached an understanding that the Student would be removed from school immediately, until the CCC could reconvene. The Principal did not utilize suspension procedures because the Principal believed that a disciplinary action was not appropriate, given the circumstances including the Student's age.
8. The Student did not attend school for nine instructional days (September 10, 11, 12, 15, 16, 17, 18, 19, and 22, 2003). The Principal offered the Parent the opportunity to pick up the Student's assignments, but homebound instruction/services were neither offered nor provided. The local director of special education acknowledges that an interruption of services occurred.
9. On September 10, 2003, the Principal telephoned the Case Conference Coordinator, to set up a CCC meeting. The Teacher also made phone calls to the Co-op. The Co-op staff promptly took steps to find a date/time that worked for CCC members' schedules. The Case Conference Coordinator, for example, offered four possible dates.
10. On September 12, 2003, a Notice of Case Conference Meeting was mailed, indicating that the CCC would meet on September 19, 2003. This date was not agreeable to the Parents. More phone calls were made to find another date. On September 18, 2003, a Notice of Case Conference Meeting was mailed, indicating that the CCC would meet on September 23, 2003.
11. The Student returned to school on September 23, 2003. During the period from September 10, 2003, through September 22, 2003, the Student would have received a total of 54 hours of special education services including approximately 3.9 hours (or 234 minutes) of speech/language services and approximately 40 minutes of occupational therapy.
12. The Student's CCC reconvened September 23, 2003. The CCC clarified that the goals and objectives of the pre-existing IEP continue in effect until the CCC discusses and decides upon different goals and objectives. The Co-op also sought and obtained the Parent's assistance in constructing a PEC system tailored to the needs and skills of the Student. A PEC system has been in use since late September.

## **CONCLUSIONS:**

1. Findings of Fact # 7, #8, #9, #10, and #11 indicate that an interruption of the Student's special education and related services occurred, without utilization of case conference procedures or written parental consent for a change of placement. Further, Finding of Fact #7 indicates that 511 IAC 7-29-1 is not applicable to this situation. Therefore, a violation of 511 IAC 7-27-4(a)(4) and 511 IAC 7-27-5(d)(3) occurred.
2. Findings of Fact #5 and #6 indicate that revisions to the various students' IEPs were proposed without utilizing the CCC process. Therefore, a violation of 511 IAC 7-27-4(c) occurred. However, Finding of Fact #12 indicates that appropriate corrective action has been taken with respect to the Student.
3. Findings of Fact #3, #4, and #6 indicate that the Student's IEP called for a PEC system, but a PEC system was not provided or utilized during the period from September 2, 2003, through September 9, 2003. Therefore, a violation of 511 IAC 7-27-7(a) occurred. However, Finding of Fact #12 indicates that appropriate corrective action has been taken.

**The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

## **CORRECTIVE ACTION:**

By March 15, 2004, Warrick County School Corporation and the Gibson-Pike-Warrick Special Education Cooperative shall:

1. Inform principals, by memo or presentation at a meeting, that when a change of placement (other than a change of placement for disciplinary removals) is proposed or to be considered, the case conference committee process must be utilized and written parental consent must be obtained.
2. Inform special education teachers, by memo or presentation at a meeting, that the case conference committee process must be utilized when revising an IEP.

Documentation of compliance, consisting of a copy of the memo(s) or summary of the presentation(s), together with a list of the recipients of the memo or participants in the meeting, shall be submitted to the Indiana Department of Education, Division of Exceptional Learners by March 22, 2004.